

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Ronald Jefferson Davis, Jr.,)	
)	Civil Action No. 2:12-2970-RMG
Plaintiff,)	
)	
v.)	
)	
Andrew Thomas Taylor, Jr., Naomi)	ORDER
Alazraki Taylor, Louis Richard Cohen,)	
Cohen Law Group, LLC, and,)	
John Does 1-5,)	
)	
Defendants.)	
)	

This matter is before the Court on the Report and Recommendation (“R&R”) of the Magistrate Judge recommending that this Court deny without prejudice Defendants Lewis Richard Cohen and Cohen Law Group, LLC’s motion to dismiss (Dkt. No. 16) and order this case be transferred to the United States District Court for the Northern District of Georgia. (Dkt. No. 38). For the reasons set forth below, the Court agrees with and wholly adopts the R&R as the order of the Court and orders this case be transferred to the United States District Court for the Northern District of Georgia.

Background

Plaintiff, proceeding pro se, filed this civil action on October 15, 2012, asserting thirteen state law causes of action. (Dkt. No. 1). Pursuant to 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02(B)(2) DSC, this case was assigned to a Magistrate Judge. Defendants Lewis Richard Cohen and Cohen Law Group, LLC (“Defendants”) then filed a motion to dismiss on December 21, 2012. (Dkt. No. 16). Plaintiff filed a response in opposition to the motion and in the alternative a motion to transfer venue on February 7, 2013. (Dkt. No. 32). Defendants then filed

a reply on February 19, 2013. (Dkt. No. 36). On March 8, 2013, the Magistrate Judge issued an R&R recommending the Court deny Defendants' motion to dismiss without prejudice and order the case be transferred. (Dkt. No. 38). Plaintiff then filed timely objections to the R&R. (Dkt. No. 50).

Legal Standard

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a de novo determination of those portions of the R&R to which specific objection is made. Additionally, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate judge with instructions." *Id.*

Discussion

After review of the record and the R&R, the Court finds the Magistrate Judge applied sound legal principles to the facts of the case and therefore wholly adopts the R&R as the order of the Court. (Dkt. No. 38). Plaintiff does not object to transfer of the case to the United States District Court for the Northern District of Georgia. (Dkt. No. 50 at 2). Defendants apparently argue against transfer only because Plaintiff did not file a proper motion for transfer. (Dkt. No. 36 at 8). However, the Court may consider this issue *sua sponte*. *Magic Toyota, Inc. v. Southeast Toyota Distrib., Inc.*, 784 F. Supp. 306, 321 (D.S.C. 1992). Therefore, for the reasons expressed in the R&R, the Court denies Defendants' motion to dismiss without prejudice and transfers the case to the United States District Court for the Northern District of Georgia.

Conclusion

The Court agrees with and wholly adopts the R&R as the order of the Court. (Dkt. No. 38). Accordingly, the Court denies without prejudice all pending motions (Dkt. Nos. 16, 26, 46, 47) and orders this case be transferred to the United States District Court for the Northern District of Georgia.

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Court Judge

March 27, 2013
Charleston, South Carolina